

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHERYL DENISE FLIPPEN,

Plaintiff,

v.

ALLSTATE LIFE INSURANCE COMPANY,

Defendant.

CASE NO. 5:18-cv-326

**DEFENDANT ALLSTATE LIFE INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Allstate Life Insurance Company (“Allstate”) hereby gives notice of and removes this action to the United States District Court for the Northern District of Ohio as follows:

BACKGROUND AND BASIS FOR REMOVAL

1. On or about January 9, 2018, Plaintiff Cheryl Denise Flippen commenced this action by filing a complaint in the Court of Common Pleas of Summit County, Ohio. Allstate received the Complaint on or after January 10, 2018. A copy of the as-served Complaint is attached hereto as Exhibit A.

2. Because Allstate received a copy of the complaint on or after January 10, 2018, this notice is timely filed in accordance with the provisions of 28 U.S.C. § 1446(b) because it is brought within 30 days after receipt of the complaint by Allstate. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 348 (1999) (thirty day period for removal is triggered by “simultaneous service of the summons and complaint or receipt of the complaint, ‘through

service or otherwise,’ after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service”).

3. This action concerns a life insurance policy issued by Allstate on the life of Plaintiff’s now deceased husband, Thomas L. Flippen, Sr. (the “Policy”). *See* Ex. A, ¶1. Plaintiff was a beneficiary of the Policy with total benefits in the amount of \$100,000. *See* Ex. B (Declaration).¹

4. Plaintiff alleges that Allstate “has not made all payments to Plaintiff to which it owes a contractual obligation.” Ex. A, ¶7. Plaintiff also alleges that Allstate’s “refusal to pay was made in bad faith.” *Id.* at ¶8.

5. This is a civil action and this Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship and because the amount in controversy exceeds the \$75,000 jurisdictional minimum.

6. At the time this lawsuit was filed, Plaintiff was, and upon information and belief, remains a resident and citizen of Ohio. *Id.* (Caption).

7. Allstate was at the time the lawsuit was filed, and is as of the date of this notice, a life insurance company organized and existing in Illinois with its principal place of business in Illinois. *See* Ex. B, ¶3.

8. Accordingly, there is complete diversity of citizenship between Plaintiff and Allstate.

¹ Although Plaintiff did not specify the amount of proceeds at issue, the Court may look to the record before it and evaluate the jurisdictional amount. *See Geriak v. ARNCO*, No. 1:10-CV-2856, 2011 WL 1576087, at *4 (N.D. Ohio Mar. 3, 2011), *report and recommendation adopted*, No. 1:10 CV 02856, 2011 WL 1539929 (N.D. Ohio Apr. 22, 2011) (removal appropriate when complaint does not specify amount in controversy if the removing defendant has “solid and unambiguous information that [the] case is removable even if that information is solely within its own possession”).

9. Moreover, this action involves an alleged dispute in the amount of \$100,000 in Policy proceeds, and Plaintiff seeks to recover that amount. *See* Ex. A, ¶¶1,7; Ex. B, ¶7.

10. Accordingly, it is clear from the face of the complaint that Plaintiff seeks to recover an award in excess of \$75,000, exclusive of interest and costs, and the amount in controversy thus exceeds the jurisdictional minimum.

NOTICE

11. Pursuant to 28 U.S.C. § 1446(d), all adverse parties are being provided with written notice of removal, and a copy of this notice is being filed with the Court of Common Pleas of Summit County.

JURY TRIAL

12. Plaintiff demanded a jury trial in the state court action.

STATE COURT PLEADINGS

13. Copies of all process and pleadings served on Allstate are attached to this notice as Exhibit A. The case is being removed from the Court of Common Pleas of Summit County, 209 S. High Street, Akron, Ohio 44308.

CONCLUSION

WHEREFORE, Defendant Allstate, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby removes this action from the Court of Common Pleas of Summit County to the United States District Court for the Northern District of Ohio.

Respectfully submitted,

Date: February 9, 2018

By: /s/ Paul B. Ricard
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Allstate Life Insurance Company

CERTIFICATE OF SERVICE

I, Paul B. Ricard, hereby certify that on February 9, 2018, I filed the foregoing Notice of Removal and caused a true and correct copy of the same to be sent via United States Mail, postage prepaid, and/or via electronic mail, to the following counsel of record:

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Attorney for Plaintiff

/s/ Paul B. Ricard

Paul B. Ricard (#0088207)

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